

REFERENCE TITLE: urgent care centers

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SB 1104

Introduced by
Senators Blendu: Cannell, Gray

AN ACT

AMENDING SECTIONS 36-401 AND 36-402, ARIZONA REVISED STATUTES; REPEALING SECTIONS 36-432 AND 36-445.04, ARIZONA REVISED STATUTES; AMENDING SECTION 48-5501, ARIZONA REVISED STATUTES; RELATING TO HEALTH CARE INSTITUTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-401, Arizona Revised Statutes, is amended to
3 read:

4 36-401. Definitions: adult foster care

5 A. In this chapter, unless the context otherwise requires:

6 1. "Accredited health care institution" means a health care
7 institution, other than a hospital, that is currently accredited by a
8 nationally recognized accreditation organization.

9 2. "Accredited hospital" means a hospital ~~that is~~ currently accredited
10 by a nationally recognized commission on hospital accreditation.

11 3. "Adaptive services" means medical services ~~that are~~ provided on an
12 outpatient basis.

13 4. "Adult day health care facility" means a facility ~~providing~~ ~~that~~
14 ~~provides~~ adult day health services during a portion of a continuous
15 twenty-four hour period for compensation on a regular basis for five or more
16 adults not related to the proprietor.

17 5. "Adult day health services" means a program that provides planned
18 care supervision and activities, personal care, personal living skills
19 training, meals and health monitoring in a group setting during a portion of
20 a continuous twenty-four hour period. Adult day health services may also
21 include preventive, therapeutic and restorative health related services that
22 do not include behavioral health services.

23 6. "Adult foster care" means a residential setting ~~which~~ ~~that~~ provides
24 room and board and adult foster care services for at least one and no more
25 than four adults who are participants in the Arizona long-term care system
26 pursuant to chapter 29, article 2 of this title and in which the sponsor or
27 the manager resides with the residents and integrates the residents who are
28 receiving adult foster care into that person's family.

29 7. "Adult foster care services" means supervision, assistance with
30 eating, bathing, toileting, dressing, self-medication and other routines of
31 daily living or services authorized by section 36-2939, subsection C and
32 rules adopted pursuant to that section.

33 8. "Ambulatory person" means any individual, including one who uses a
34 cane or other ambulatory support device, who is physically and mentally
35 capable under emergency conditions of finding a way to safety without
36 assistance.

37 9. "Assisted living center" means an assisted living facility that
38 provides resident rooms or residential units to eleven or more residents.

39 10. "Assisted living facility" means a residential care institution,
40 including adult foster care, that provides or contracts to provide
41 supervisory care services, personal care services or directed care services
42 on a continuing basis.

43 11. "Assisted living home" means an assisted living facility that
44 provides resident rooms to ten or fewer residents.

12. "Capital expenditure" means the acquisition by lease or purchase of a capital asset in the nature of buildings, fixtures or durable equipment.

13. "Construction" means the building, erection, fabrication or installation of a health care institution.

14. "Continuous" means available at all times without cessation, break or interruption.

15. "Controlling person" means a person who:

(a) Through ownership, has the power to vote at least ten per cent of the outstanding voting securities.

(b) If the applicant or licensee is a partnership, is the general partner or a limited partner who holds at least ten per cent of the voting rights of the partnership.

(c) If the applicant or licensee is a corporation, an association or a limited liability company, is the president, the chief executive officer, the incorporator or any person who owns or controls at least ten per cent of the voting securities. For the purposes of this subdivision, corporation does not include nonprofit corporations.

(d) Holds a beneficial interest in ten per cent or more of the liabilities of the applicant or the licensee.

16. "Department" means the department of health services.

17. "Directed care services" means programs and services, including personal care services, **THAT ARE** provided to persons who are incapable of recognizing danger, summoning assistance, expressing need or making basic care decisions.

18. "Direction" means authoritative policy or procedural guidance for the accomplishment of a function or activity.

19. "Director" means the director of the department of health services.

20. "Facilities" means buildings **THAT ARE** used by a health care institution for providing any of the types of services as defined in this chapter.

~~21. "Freestanding urgent care center":~~

~~(a) Means an outpatient treatment center that, regardless of its posted or advertised name, meets any of the following requirements:~~

~~(i) Is open twenty four hours a day, excluding at its option weekends or certain holidays, but is not licensed as a hospital.~~

~~(ii) Claims to provide unscheduled medical services not otherwise routinely available in primary care physician offices.~~

~~(iii) By its posted or advertised name, gives the impression to the public that it provides medical care for urgent, immediate or emergency conditions.~~

~~(iv) Routinely provides ongoing unscheduled medical services for more than eight consecutive hours for an individual patient.~~

~~(b) Does not include the following:~~

~~(i) A medical facility that is licensed under a hospital's license and that uses the hospital's medical provider number.~~

~~(ii) A qualifying community health center pursuant to section 36-2907.06.~~

~~(iii) Any other health care institution licensed pursuant to this chapter.~~

~~22.~~ 21. "Governing authority" means the individual, agency, group or corporation, appointed, elected or otherwise designated, in which the ultimate responsibility and authority for the conduct of the health care institution are vested.

~~23.~~ 22. "Health care institution" means every place, institution, building or agency, whether organized for profit or not, ~~which~~ THAT provides facilities with medical services, nursing services, health screening services, other health-related services, supervisory care services, personal care services or directed care services and THAT includes home health agencies as defined in section 36-151 and hospice service agencies.

~~24.~~ 23. "Health-related services" means services, other than medical, ~~pertaining~~ THAT PERTAIN to general supervision, protective, preventive and personal care services, supervisory care services or directed care services.

~~25.~~ 24. "Health screening services" means the acquisition, analysis and delivery of health-related data of individuals to aid in the determination of the need for medical services.

~~26.~~ 25. "Hospice" means a hospice service agency or the provision of hospice services in an inpatient facility.

~~27.~~ 26. "Hospice service" means a program of palliative and supportive care for terminally ill persons and their families or caregivers.

~~28.~~ 27. "Hospice service agency" means an agency or organization, or a subdivision of that agency or organization, ~~which~~ THAT is engaged in providing hospice services at the place of residence of its clients.

~~29.~~ 28. "Inpatient beds" or "resident beds" means accommodations with supporting services, such as food, laundry and housekeeping, for patients or residents who generally stay in excess of twenty-four hours.

~~30.~~ 29. "Licensed capacity" means the total number of persons for whom the health care institution is authorized by the department to provide services as required pursuant to this chapter if the person is expected to stay in the health care institution for more than twenty-four hours. For a hospital, licensed capacity means only those beds specified on the hospital license.

~~31.~~ 30. "Medical services" means the services ~~pertaining~~ THAT PERTAIN to medical care AND that are performed at the direction of a physician on behalf of patients by physicians, dentists, nurses and other professional and technical personnel.

~~32.~~ 31. "Modification" means the substantial improvement, enlargement, reduction, alteration of or other change in a health care institution.

~~33.~~ 32. "Nonproprietary institution" means any health care institution THAT IS organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder

1 or individual, or ~~THAT IS~~ operated by the state or any political subdivision
2 of the state.

3 ~~34-~~ 33. "Nursing care institution" means a health care institution
4 ~~providing~~ ~~THAT PROVIDES~~ inpatient beds or resident beds and nursing services
5 to persons who need nursing services on a continuing basis but who do not
6 require hospital care or direct daily care from a physician.

7 ~~35-~~ 34. "Nursing services" means those services ~~pertaining~~ ~~THAT~~
8 ~~PERTAIN~~ to the curative, restorative and preventive aspects of nursing care
9 ~~AND~~ that are performed at the direction of a physician by or under the
10 supervision of a registered nurse licensed in this state.

11 ~~36-~~ 35. "Organized medical staff" means a formal organization of
12 physicians, and dentists where appropriate, with the delegated authority and
13 responsibility to maintain proper standards of medical care and to plan for
14 continued betterment of that care.

15 ~~37-~~ 36. "Outpatient surgical center" means a type of health care
16 institution with facilities and limited hospital services for the diagnosis
17 or treatment of patients by surgery whose recovery, in the concurring
18 opinions of the surgeon and the anesthesiologist, does not require inpatient
19 care in a hospital.

20 ~~38-~~ 37. "Personal care services" means assistance with activities of
21 daily living that can be performed by persons without professional skills or
22 professional training and ~~THAT~~ includes the coordination or provision of
23 intermittent nursing services and the administration of medications and
24 treatments by a nurse who is licensed pursuant to title 32, chapter 15 or as
25 otherwise provided by law.

26 ~~39-~~ 38. "Physician" means any person ~~WHO IS~~ licensed ~~under~~ ~~PURSUANT TO~~
27 title 32, chapter 13 or 17.

28 ~~40-~~ 39. "Residential care institution" means a health care institution
29 other than a hospital or a nursing care institution ~~which~~ ~~THAT~~ provides
30 resident beds or residential units, supervisory care services, personal care
31 services, directed care services or health-related services for persons who
32 do not need inpatient nursing care.

33 ~~41-~~ 40. "Residential unit" means a private apartment, unless otherwise
34 requested by a resident, that includes a living and sleeping space, kitchen
35 area, private bathroom and storage area.

36 ~~42-~~ 41. "Respite care services" means services ~~THAT ARE~~ provided by a
37 licensed health care institution to persons otherwise cared for in foster
38 homes and in private homes to provide an interval of rest or relief of not
39 more than thirty days to operators of foster homes or to family members.

40 ~~43-~~ 42. "Substantial compliance" means that the nature or number of
41 violations revealed by any type of inspection or investigation of a licensed
42 health care institution does not pose a direct risk to the life, health or
43 safety of patients or residents.

44 ~~44-~~ 43. "Supervision" means direct overseeing and inspection of the
45 act of accomplishing a function or activity.

1 ~~45-~~ 44. "Supervisory care services" means general supervision,
2 including daily awareness of resident functioning and continuing needs, the
3 ability to intervene in a crisis and assistance in the self-administration of
4 prescribed medications.

5 ~~46-~~ 45. "Unscheduled medical services" means medically necessary
6 periodic health care services that are unanticipated or cannot reasonably be
7 anticipated and that require medical evaluation or treatment before the next
8 business day.

9 B. If there are fewer than four Arizona long-term care system
10 participants receiving adult foster care in an adult foster care home,
11 nonparticipating adults may receive other types of services **THAT ARE**
12 authorized by law to be provided in the adult foster care home as long as the
13 number of adults served, including the Arizona long-term care system
14 participants, does not exceed four.

15 C. Nursing care services may be provided by the adult foster care
16 licensee if ~~such~~ **THE** licensee is a nurse **WHO IS** licensed pursuant to title
17 32, chapter 15 and the services are limited to those allowed pursuant to
18 law. The licensee shall keep a record of nursing services rendered.

19 Sec. 2. Section 36-402, Arizona Revised Statutes, is amended to read:

20 **36-402. Exemptions**

21 A. This chapter and the rules adopted by the director pursuant to this
22 chapter do not authorize the licensure, supervision, regulation or control
23 of:

24 1. The remedial care or treatment of residents or patients in any home
25 or institution conducted only for those who rely solely on treatment by
26 prayer or spiritual means in accordance with the creed or tenets of any well
27 recognized church or religious denomination.

28 2. Establishments, such as motels, hotels and boarding houses, that
29 provide domiciliary and ancillary commercial services, but do not provide
30 adaptive, medical, hospital, nursing, health-related or supervisory care
31 services.

32 3. Private offices and clinics of health care providers **WHO ARE**
33 licensed ~~under~~ **PURSUANT TO** title 32 ~~that are not freestanding urgent care~~
34 ~~centers~~, unless:

35 (a) Patients are kept overnight as bed patients or treated otherwise
36 under general anesthesia except when treatment by general anesthesia is
37 regulated by title 32, chapter 11.

38 (b) The office or clinic is an abortion clinic. For the purposes of
39 this subdivision, "abortion clinic" has the same meaning prescribed in
40 section 36-449.01.

41 4. Dispensaries and first aid stations **THAT ARE** located within
42 business or industrial establishments maintained solely for the use of
43 employees if the facility does not contain inpatient beds and is under the
44 supervision of a physician.

1 5. The collection, processing or distribution of whole human blood,
2 blood components, plasma, blood fractions or derivatives procured, processed
3 or distributed by federally licensed and regulated blood banks.

4 6. Adult foster care homes THAT ARE certified by the county or the
5 department pursuant to section 11-293.01 or 36-410.

6 7. Places where four or fewer adults THAT ARE not related to the
7 administrator or owner receive adult day health services for compensation on
8 a regular basis.

9 8. Places at which persons receive health related services only from
10 relatives or from legal guardians or places that do not purport to be
11 establishments that regularly provide health related services and at which
12 one or two persons receive health related services on a twenty-four hour
13 basis.

14 9. The Arizona pioneers' home. However, the department of health
15 services shall evaluate the health and sanitation conditions at the Arizona
16 pioneers' home annually using the standards applicable to licensed nursing
17 care institutions.

18 10. The personal residence of a terminally ill person, or the personal
19 residence of that person's relative or guardian, where that person receives
20 hospice services from a hospice service agency.

21 11. All medical and health related facilities and services that are
22 provided to inmates who are confined in a state prison. The state department
23 of corrections shall annually evaluate the medical and health related
24 facilities and services that are provided to inmates to determine that the
25 facilities and services meet the applicable standards that are adopted by the
26 director of the department of health services. The state department of
27 corrections shall report the results of its annual evaluation and the actual
28 findings, including a plan of correction for any deficiencies, to the
29 director of the department of health services. The department of health
30 services shall conduct validation surveys on a percentage of the medical and
31 health related facilities, the number of which shall be determined by the
32 state department of corrections and the department of health services. The
33 director of the state department of corrections shall maintain the annual
34 evaluation reports. This paragraph does not apply to licensed behavioral or
35 mental health inpatient treatment facilities that the state department of
36 corrections operates.

37 12. A facility that provides medical and health services to inmates who
38 are confined in a county jail. The sheriff shall annually evaluate the
39 facility to determine if it meets the applicable standards that are adopted
40 by either a national corrections commission on health care or an American
41 correctional association or the sheriff shall annually submit the facility to
42 a similar separate inspection by an outside agency with medical standards.
43 The sheriff must submit the certificate of accreditation or proof of
44 successful inspection to the department annually and keep a copy of the
45 certificate or proof of inspection.

B. A medical and health related facility that provides medical and health services exclusively to persons who are incarcerated, detained or confined under court order or court jurisdiction is exempt from the patient-per-room capacity requirements provided in rule if the facility:

1. Does not exceed its intended medical and custodial purposes.
2. Adopts policies and procedures to comply with the national commission on correctional health care standards, or equivalent **STANDARDS**.
3. As soon as practicable, becomes accredited by the national commission on correctional health care, or **BY AN** equivalent **ORGANIZATION**.
4. Once accreditation is obtained, submits a certificate of accreditation to the department of health services annually.
5. Maintains a copy of the certificate of accreditation.
6. Maintains patient and custodial records, including on-site current photographs and fingerprints, if permitted by applicable law.
7. Makes patient lists with inmate identifiers available to the **STATE** department of corrections on reasonable request.
8. Provides timely notice of any major incident involving public safety to the appropriate law enforcement agency and ~~allow~~ **ALLOWS** that agency access to the facility for the purposes of law enforcement and investigation.

C. ~~The provisions of~~ Subsection B of this section ~~do~~ **DOES** not apply to health care institutions that exclusively provide behavioral health services.

Sec. 3. Repeal

Sections **36-432** and **36-445.04**, Arizona Revised Statutes, are repealed.

Sec. 4. Section 48-5501, Arizona Revised Statutes, is amended to read:

48-5501. Definitions

In this chapter, unless the context otherwise requires:

1. "Freestanding urgent care center" ~~has the same meaning prescribed in section 36-401:~~

(a) **MEANS AN OUTPATIENT TREATMENT CENTER THAT, REGARDLESS OF ITS POSTED OR ADVERTISED NAME, MEETS ANY OF THE FOLLOWING REQUIREMENTS:**

(i) **IS OPEN TWENTY-FOUR HOURS A DAY, EXCLUDING AT ITS OPTION WEEKENDS OR CERTAIN HOLIDAYS, BUT IS NOT LICENSED AS A HOSPITAL.**

(ii) **CLAIMS TO PROVIDE UNSCHEDULED MEDICAL SERVICES THAT ARE NOT OTHERWISE ROUTINELY AVAILABLE IN PRIMARY CARE PHYSICIAN OFFICES.**

(iii) **BY ITS POSTED OR ADVERTISED NAME, GIVES THE IMPRESSION TO THE PUBLIC THAT IT PROVIDES MEDICAL CARE FOR URGENT, IMMEDIATE OR EMERGENCY CONDITIONS.**

(iv) **ROUTINELY PROVIDES ONGOING UNSCHEDULED MEDICAL SERVICES FOR MORE THAN EIGHT CONSECUTIVE HOURS FOR AN INDIVIDUAL PATIENT.**

(b) **DOES NOT INCLUDE THE FOLLOWING:**

(i) **A MEDICAL FACILITY THAT IS LICENSED UNDER A HOSPITAL'S LICENSE AND THAT USES THE HOSPITAL'S MEDICAL PROVIDER NUMBER.**

(ii) **A QUALIFYING COMMUNITY HEALTH CENTER PURSUANT TO SECTION 36-2907.06.**

1 (iii) ANY OTHER HEALTH CARE INSTITUTION THAT IS LICENSED PURSUANT TO
2 THIS CHAPTER.

3 2. "Home health agency" has the same meaning prescribed in section
4 36-151.

5 3. "Medical clinic" means a facility that provides for physical
6 evaluation, diagnosis and treatment of patients and that does not keep
7 patients overnight as bed patients or treat patients under general
8 anesthesia.

9 4. "Medically underserved" means populations that exhibit one or more
10 of the following indicators:

11 (a) Limitations on the availability of primary care providers,
12 prenatal care or other health care services.

13 (b) Residence in a health professional shortage area as defined in 42
14 Code of Federal Regulations, ~~part~~ part 5.

15 (c) A standard of living at or below a designated federal poverty
16 level.

17 (d) Other factors indicative of being medically underserved, including
18 levels of unemployment, incidence of infant mortality or low birth weights
19 and the elderly.

20 5. "Nursing care institution" has the same meaning prescribed in
21 section 36-401.

22 6. "Qualified electors" means persons who are qualified to vote
23 pursuant to title 16.

24 7. "Special payments" means any payments made pursuant to section
25 36-2903.01, subsection P to or on behalf of a county operated hospital,
26 including a hospital THAT IS owned or leased by a special health care
27 district.